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In re Application of :  
 SCANLAN *et al* :  
 Application No.: 10/529,655 :  
 PCT No.: PCT/US03/30870 :  
 Int. Filing Date: 30 September 2003 :  
 Priority Date: 30 September 2002 :  
 Attorney Docket No.: L0461.70156US00 :  
 For: HUMAN SARCOMA-ASSOCIATED :  
 ANTIGENS :

**DECISION**

This is a decision on the declaration filed with the United States Designated/Elected Office (DO/EO/US) on 26 January 2006 which has been treated as a petition under 37 CFR 1.42. No fee is required.

**BACKGROUND**

On 23 September 2005, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (Form PCT/DO/EO/905) indicating, *inter alia*, that a declaration in compliance with 37 CFR 1.497(a) and (b) was required.

On 26 January 2006, applicants filed a response which included an executed declaration, a two-month extension and fee, and the surcharge fee.

**DISCUSSION**

The declaration filed on 26 January 2006 is executed by two of the three joint inventors and by Cynthia H. Scanlan as legal representative of deceased joint inventor, Matthew Scanlan.

37 CFR 1.42 *When the Inventor is Dead*, states, in part:

In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

A review of the declaration shows that it is not in compliance with 37 CFR

1.497(a) and (b).

The declaration records the residence, citizenship and mailing address for the legal representative. However, the declaration must also provide the citizenship information on all inventors including the deceased inventor. See 37 CFR 1.497(a)(3).

Moreover, the declaration is also defective in that it is a composite declaration. The declaration consists of one Page 1 and three Page 2's. While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. By providing only a partial declaration, it is not clear what inventive entity was listed on the declaration signed by each co-inventor. Applicants must submit the complete declaration signed by each co-inventor.

### **CONCLUSION**

For the reasons listed above, applicants' petition under 37 CFR 1.42 is **DISMISSED** without prejudice.

Applicants are required to provide an oath or declaration in compliance with 37 CFR 1.497(a) and (b) within a time limit of **TWO (2) MONTHS** from the mail date of this decision. Extension of time may be granted under 37 CFR 1.136(a).

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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